

APPENDIX B
PUBLIC COMMENTS AND RESPONSES

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PUBLIC COMMENTS AND RESPONSES

In May 2004, the U.S. Department of Energy's National Nuclear Security Administration Nevada Site Office (NNSA/NSO) issued the *Preapproval Draft Environmental Assessment for the Radiological Nuclear Countermeasures Test and Evaluation Complex, Nevada Test Site* (DOE/EA-1499) for review and public comment. A total of six comment letters were received. These letters were analyzed and NNSA/NSO identified a total of 86 comments.

This appendix provides the comments received and NNSA/NSO's responses. Each written comment letter has been included. Comments have been assigned unique reference numbers. Responses to comments follow each letter and contain the comment reference number. Table A-1 is a list of the comment letters that were received, with the letter reference numbers, commenter name, and organization if applicable.

Table A-1. Summary of Comments Received on the Preapproval Draft Environmental Assessment

Comment Reference Number	Commenter	Page Number
L-1	Robert Loux, State of Nevada, Agency for Nuclear Projects, Carson City, NV	B-3
L-2	Peggy Maze Johnson, Citizen Alert, Las Vegas, NV	B-17
L-3	John Hadder, Citizen Alert, Reno, NV	B-19
L-4	Steve Erickson, Citizens Education Project, Salt Lake City, UT	B-22
L-5	Vernon Brechin, Mountain View, CA	B-26
L-6	Sam Volpentest, Tri-City Industrial Development Council, Kennewick, WA	B-43



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July 2, 2004

Mr. Dirk Schmidhofer
NEPA Document Manager
National Nuclear Security Administration
Nevada Site Office
P.O. Box 98518
Las Vegas, Nevada 89193

Re: State of Nevada Comments on DOE/NNSA's Preapproval Draft Environmental Assessment (EA) for a Radiological/Nuclear Countermeasures Test and Evaluation Complex at the Nevada Test Site (DOE/EA-1499)

Dear Mr. Schmidhofer:

Attached please find the State of Nevada's comments on the above-referenced draft EA. The comments were prepared with input from affected State agencies and are in addition to comments submitted on May 4, 2004 in response to the April 6th, 2004 notification of intent to prepare the EA.

Thank you for the opportunity to comment on this important matter. If you have questions or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux".

Robert R. Loux
Executive Director

RRL/cs
Attachment

cc Steve Robinson, Governor's Office
Allen Biagi, NDEP
Jolaine Johnson, NDEP
Stan Marshall, NSHD
Mike Alexander, NSHS

**STATE OF NEVADA COMMENTS ON THE
U.S. DEPARTMENT OF ENERGY/NATIONAL NUCLEAR
SECURITY ADMINISTRATION'S PREAPPROVAL
DRAFT ENVIRONMENTAL ASSESSMENT FOR A
RADIOLOGICAL/NUCLEAR COUNTERMEASURES
TEST AND EVALUATION COMPLEX,
NEVADA TEST SITE (DOE/EA-1499)**

July 2, 2004

General Comments

(1) The draft Environmental Assessment (EA) does not address comments received during the scoping period that ran from April 6th – May 9th, 2004.

L-1-1

Discussion: The draft EA contains no mention of comments received by DOE/NNSA regarding the scope of analysis for and potential impacts of the proposed test and evaluation complex. The draft EA should have clearly articulated the comments received, identified the commenter for each, and provided a response as to how each comment was addressed. This could have easily been done in a comment-response section of the draft EA. As it stands, it is impossible to tell whether DOE/NNSA considered (or even read) any of the comments it received and how those comments did or did not affect the scope of the analyses described in the draft EA.

(2) Nevada officials are concerned that the process for making the public aware of the proposed Test and Evaluation Complex and the preapproval draft EA does not provide adequate notice of the proposed project or the process for commenting on it.

L-1-2

Discussion: Since the proposed test and evaluation complex deals with radioactive materials, and given the sensitivities among Nevada citizens and communities with respect to past, present and contemplated nuclear activities at NTS, it would have been in DOE/NNSA's interest (as well as the interests of affected Nevadans) to go beyond what is minimally required and assure that ample opportunities for public comment were made available. The type of project contemplated (i.e., the use of radiological/nuclear source terms at NTS and planned emissions of radioactive materials) has the potential, especially in Nevada, to evoke considerable public concern given the past history of contamination from the nuclear weapons testing program, the lingering distrust engendered by that program, and the current atmosphere of conflict and controversy surrounding the Yucca Mountain high-level waste repository project.

As was the case with respect to the April 6, 2004 notice of intent dealing with scoping for the draft EA, DOE/NNSA has not widely publicized or distributed the preapproval draft EA to assure that the public and others are adequately informed about the proposal and opportunities for comment. Nevada officials believe it would be in DOE/NNSA's interest to schedule public meetings on the draft EA in (at least) Nye County and Las

Vegas and give serious consideration to one or more additional meetings in “downwind” communities in Nevada (and possibly Utah). Meeting dates, times and places plus addresses for making written comments should also be well publicized so as to maximize public awareness and participation.

Specific Comments

Section 2.0 – Proposed Action and Alternatives

2.1.1 – Facility Description: Page 6 describes a simulated “Airport Inspection Facility” that would presumably include airport X-ray equipment. Such equipment would contain “machine-produced radiation sources” that could be subject to State Health Division regulation depending on the source. The final EA should describe any such equipment and the radiation source(s) to be used.

L-1-3

Active Interrogation Facility – The narrative suggests that highly enriched uranium, special nuclear material (SNM) and/or fissile materials may be available for operators to test their equipment. What does “source-to-target” container distances mean? “Accelerator-produced radiation fields” are mentioned. What size and safety features for this equipment are intended? What “high activity neutron-emitting radionuclide” is intended to be used?

L-1-4

The text also indicates that the Active Interrogation Facility would operate a neutron beam emitted by emplacement of the high-activity neutron emitting radionuclide that is capable of “sweeping across moving containers on the integral roadway” suggesting an open beam in the environment. What is being done to prevent workers from inadvertently walking into a radiation field? What specifically is the safety design to safely handle the high neutron field mentioned and the monochromatic high energy photon sources, muon beams and other charged particle beams. The final EA should describe details of the “shielding and exclusion areas to be established” and other safety mechanisms to be used.

L-1-5

High-Speed Road – The draft EA discusses the use of vehicles loaded with “sealed sources, medical isotopes or a quantity of special nuclear materials.” The final EA should discuss the sources of these materials (i.e., where will they come from and are they NRC-regulated) and whether any would be subject to State Health Division regulation.

L-1-6

2.1.2 – Construction and Operations: It is unclear from the discussion whether there are Corrective Action Units in the area in which the facilities would be constructed. The Federal Facilities Agreement and Consent Order (FFACO) requires that the Nevada Division of Environmental Protection (NDEP) have access to such sites for inspections and observation of remedial activities if they are present.

L-1-7

2.1.1.3 – Nuclear Operations: The second paragraph indicates that special nuclear materials will be stored at the NTS Device Assembly Facility (DAF) after completion of activities. Does this mean that SNM will remain at the Radiological/Nuclear Countermeasures Complex facilities at the end of each work day prior to completion of the training sessions and other activities? If so, what security or other surveillance will be in place if the SNM is not stored at the end of each work day at the DAF?

L-1-8

The 1st paragraph on page 9 describes “up to 50 kg of highly enriched uranium or other SNM components in various shapes and sizes up to several kg each” that could be used at the facility. In paragraph 2 on page 9, the draft references the use of other “radioactive source material” including undefined “additional large sealed sources.” The final EA should describe the non-SNM source material that would be in either solid or liquid form and whether or not these materials derive from NRC licensees.

L-1-9

2.1.3 – Safeguards and Security: To the extent possible, the final EA should include, as an appendix, the “nuclear implementation plan” that is being developed to control nuclear materials and prevent their loss. If some information in the plan is classified, the non-classified portions of the plan could be included. As an alternative, a classified appendix containing the plan could be referenced and shared with State personnel with appropriate clearances.

L-1-10

2.2 – Alternative Actions: The draft EA does not address possible alternative locations outside of the Nevada Test Site (NTS) that could potentially host the test and evaluation complex. While the document describes certain features of the NTS that seem to fit well with the proposed facility, there are likely other locations within the DOE/NNSA complex nationwide that would also be viable locations. Sites in New Mexico (Sandia, Los Alamos), Idaho (INEEL), South Carolina (Savannah River) and others would seem to be alternatives that should have been assessed and discussed in the draft EA. The draft EA contains no analyses demonstrating that NTS is the most appropriate site and no rationale for why DOE/NNSA chose NTS over locations in other states. An adequate evaluation of alternatives should include the comparison of sites on NTS with potential sites at other DOE/NNSA facilities.¹

L-1-11

Section 3.0 – Affected Environment

3.1 – Land Use: The draft EA fails to address whether the proposed action is consistent with the purpose for which Congress withdrew the land for the Nevada Test Site (i.e., atomic weapons testing-related activities). Under the terms of the negotiated settlement of the State of Nevada’s lawsuit challenging the Nevada Test Site EIS, DOE was to have consulted with the Bureau of Land Management regarding the status of the land withdrawal and consistency of various NTS activities with the mission of the NTS as specified in the land withdrawal legislation. To date, State officials are not aware that such consultation has taken place or any plans for resolving the issue.

L-1-12

¹ An example of this type of analysis is contained in DOE/NNSA’s Draft Supplemental Programmatic Environmental Impact Statement on Stockpile Stewardship and Management For a Modern Pit Facility (DOE/EIS-236-S2), which looked at potential sites for the proposed modern pit facility at various locations in the DOE/NNSA complex.

3.1.2 – Water (also 4.1.1.2): The final EA should discuss whether any of the referenced wells would be used as potable sources for human consumption and, as such, be subject to State Health Division water program requirements.	L-1-13
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Section 4.0 – Environmental Effects

4.1.2 – Infrastructure (Waste Management, page 19):

Hazardous Waste: The draft EA notes that “[s]mall quantities of hazardous wastes ... could be generated during construction activities. Any hazardous wastes would be transported to Area 5 RWMS to await off-site disposal.” The final EA should clearly specify the procedure that will be used for the final disposal of such wastes (i.e., what off-site facility will be used for final disposal, how would the waste be moved there; the types of agreements, etc. that would be needed to effectuate such disposal; etc.).	L-1-14
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Low-Level Radioactive and Mixed Waste: While the draft EA indicates that little, if any, radioactive or mixed waste would be expected to result from project activities, the final EA should clearly describe how such waste would be handled, managed and disposed of. Especially in the case of mixed hazardous and low-level radioactive waste, what would be the path for disposal, given the status of DOE’s Part B permit application with the Nevada Division of Environmental Protection?	L-1-15
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Medical Isotopes: The draft EA states “it is anticipated that the <i>medical isotope supplier</i> would reclaim any unused material when the activity was below the levels needed for use at the complex. Non-medical isotopes would be retained during the facility’s lifetime and either excessed if suitable users are available or disposed of according to current radioactive waste disposal procedures” (emphasis added). The final EA should identify “the medical isotope supplier” to determine if this is an out-of-state NRC-licensee subject to State Health Division regulation. The final EA should also contain a discussion of the regulatory regime that will govern such materials. Would medical isotopes provided by commercial suppliers be subject to NRC (and agreement state) regulation? What is the role of the Nevada State Health Division Radiological Health Section in overseeing and regulating such materials, given that Nevada is an NRC agreement state and Radiological Health implements regulations governing the use of such materials? If DOE is asserting self-regulation with respect to such materials, what is the statutory/regulatory basis for such assertion?	L-1-16
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The final EA should describe the storage protocols to be used for retaining “non-medical isotopes” during the facility’s lifetime.	L-1-17
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The final EA should also describe in detail what the “current radioactive waste disposal procedures” are and how DOE/NNSA proposes to implement them for any radioactive wastes from the complex that requires disposal.	L-1-18
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The draft EA also indicates that “special nuclear materials” will be employed during operations of the test and evaluation complex (ref. Section 1.1 – Proposed Action and the text box on page 8). While the draft EA infers that such special nuclear materials will be “sealed sources,” the final EA should address the regulatory regime governing the use of such materials as well as regulations and procedures governing the disposal of “special nuclear materials” that may be required in the event of a failure of the sealed source container or unexpected contamination from such sources.

L-1-19

4.1.7 – Air Quality: The final EA should address the potential for construction and other Test and Evaluation Complex activities to result in the re-suspension of radionuclides left over in the soils from prior weapons testing activities at NTS. Some questions to be addressed include: Have there been analyses done to determine the amount and types of radionuclides in the soils at the proposed project site? What are the potential exposure pathways? What would be the potential health impacts to workers, trainees, and others of soil disturbances that re-suspend these radionuclides?

L-1-20

The second paragraph under this section discusses “emissions from uranium and plutonium sources,” noting that “[p]otential emissions were evaluated using an EPA-approved computer model, CAP-88, to determine whether monitoring would be required. Preliminary results indicate that emissions would fall well below the NESHAPS dose limit of 10 millirems per year (40 CFR 61.92) and that no monitoring would be required.” Because this section discusses emissions from radionuclides and other sections of the draft EA references radionuclides as being sealed sources or otherwise contained, it is unclear just what “emissions” there may be from such sources or why the use of the CAP-88 computer model is necessary.

L-1-21

Given the nature of the activities contemplated for the proposed action, DOE/NNSA would be well-advised to establish an effective monitoring system to demonstrate what the actual annual emissions from all potential radionuclide sources are instead of relying on hypothetical computer modeling.

L-1-22

4.1.11 – Occupational and Public Health and Safety: The final EA should address the issues of radiation exposures to workers, trainees, and others resulting from the re-suspension of radionuclides from past weapons testing activities (see discussion in relation to 4.1.7 – air quality – above).

L-1-23

The final EA should also provide the reference supporting the statement, “[v]isitors to the NTS are subject to essentially the same safety and health requirements as workers” (i.e., DOE or other regulations governing visitor safety and health requirements), since the operation of the Radiological/Nuclear Countermeasures Complex will necessarily involve the participation of a significant number of “visitors” to NTS to participate in facility activities. Is it likely that, because of the numbers of such visitors and the nature of their involvement, special safety and health requirements might have to be developed?

L-1-24

Section 5.0 – Cumulative Effects

5.1.1 – Land Use, Transportation, and Waste Management: Almost simultaneous with the release of the Countermeasures Complex Preapproval Draft EA, DOE/NNSA is in the process of finalizing an EA for using biological simulants and releases of chemicals at NTS (ref. the April, 2004 “Predecisional Draft Environmental Assessment for Using Biological Simulants and Releases of Chemicals at the Nevada Test Site” DOE/EA-494). The final EA for the Countermeasures Test and Evaluation Complex should assess possible cumulative impacts from biological and chemical releases as well as from training and other activities contemplated in the EA for the biological/chemical releases project.

L-1-25

Likewise, the final EA should examine possible cumulative impacts from DOE’s ongoing low-level radiological waste (LLW), mixed LLW and hazardous waste, and transuranic waste activities at NTS. Thousands of shipments of waste come into NTS each year. The EA should assess any potential health or safety impacts to DOE LLW or truwaste workers, drivers, inspection personnel, etc. from radiological and non-radiological activities contemplated under the proposed action. Potential impacts to these other DOE programs resulting from accidents or incidents at the Countermeasures Complex (i.e., work stoppages, evacuations, etc.) should also be thoroughly examined. Likewise, impacts to the Test and Evaluation Complex from activities or incidents associated with other NTS activities should be evaluated.

L-1-26

If DOE adheres to its published schedule and overcomes State of Nevada opposition to the proposed Yucca Mountain repository program, large numbers of workers and others involved with the construction of that project will be working and traveling on NTS regularly. Likewise, starting in 2010 (according to DOE’s current schedule), large numbers of spent fuel and high-level waste shipments could start arriving at the repository. The EA should examine possible impacts of the proposed action on Yucca Mountain workers, drivers, inspectors, and others involved with that project as well as any impacts to the Countermeasures Complex from Yucca Mountain project activity. For example, could there be harmful health effects to individuals who are exposed to radiological materials accidentally or intentionally disbursed under the proposed action? The EA should examine meteorological conditions that could cause such exposures and assess any short or long-term consequences.

L-1-27

5.1.6 – Air Quality: The final EA should evaluate construction and other relevant activities planned for other projects/locales at the NTS and assess whether there could be cumulative impacts from re-suspension of weapons testing radionuclides in soils. Construction and/or other soil-disturbing activities occurring at the Test and Evaluation Complex simultaneously with such activities at other NTS or proximate locations (i.e., the Yucca Mountain project; Area 5 low-level waste operations; etc) could result in cumulative impacts associated with re-suspension, depending on certain factors such as meteorological conditions, etc.

L-1-28

DOE/NNSA needs to ensure that a modification to the application for the existing air quality operating permit is submitted and approved prior to the addition of any new emission unit or modification to an existing emission unit requiring a permit.	L-1-29
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5.1.10 – Occupational and Public Health and Safety: See comment above (5.1.6) regarding cumulative effects of various NTS activities on re-suspension of radionuclides from weapons testing and potential that might require analysis to determine impacts on worker and public health.	L-1-30
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Section 6.0 – Mitigation Measures

The final EA should contain a detailed plan for ongoing monitoring of radiation and radiological emissions/exposures.	L-1-31
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Section 7.0 – Accident Analysis

The section of the draft EA on Accident Analysis appears to be inadequate. The blanket assertion that engineering and administrative controls and standard industrial safety programs support the conclusion that “no significant residual safety risks were identified,” is unsubstantiated. At a minimum, the final EA should identify and define credible worst case accidents for both Test and Evaluation Complex operations and for transportation/vehicle operations (i.e., explosion and fire resulting in aerosolized release of radioactive or toxic materials, etc.). Without a clear evaluation of potential worst case accidents, it is not possible to conclude that hypothesized engineering and administrative controls or industrial safety programs will be adequate to prevent, mitigate, or otherwise deal with such occurrences.	L-1-32
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Section 8.0 – Regulatory Requirements

This section is intended to describe “some” of the laws and regulations which would be applicable to this proposed action. It is unclear how some were identified and others not. For example NAC 445A refers to Water Pollution Control, yet Section 8.2 talks only about public water systems and leaves out the discussion about pollution control and spill reporting as well as other aspects of the regulations. The list of DOE Orders in Section 8.3 does not include DOE Order 435.1. Section 8.4 regarding permits does not include the relevant agreements such as the FFACO and the Agreement in Principle.

The section either needs to clarify that this is an incomplete list (and justify why such a list is used) or the discussion needs to be more specific and inclusive about applicable requirements.	L-1-33
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8.1 – Federal Laws and Regulations: The final EA should also identify the following federal laws/regulations and discuss how they relate to the proposed action:

- | | |
|---|--|
| (1) The Resource Conservation and Recovery Act (RCRA) | |
|---|--|

RCRA governs how any hazardous or mixed hazardous/radioactive wastes are managed and disposed of.

(2) U.S. Nuclear Regulatory Commission (NRC) Regulations

NRC regulations govern the use of commercial and medical radiation sources that originate from NRC licensees.

8.2 – State Laws and Regulations: The State of Nevada has delegated authority with respect enforcing to RCRA and NRC regulations. The final EA should include an evaluation of (1) the Nevada State Health Division’s authority with respect to the use of commercial and medical radiation sources at the proposed Test and Evaluation Complex and (2) the Nevada Division of Environmental Protection’s authority for enforcing applicable RCRA regulations.

8.4 – Permits: Table 1 on page 30 should include hazardous materials permits required for transporting hazardous and radioactive materials. It should also include any permits required from the Nevada State Health Division (for the use of radioactive sources) and the Nevada Division of Environmental Protection (for hazardous materials disposal, etc.).

The Air Quality Operating Permit, AP9711-0549.01, referenced on Table 1 was issued on June 25, 2004 and expires June 25, 2009. All facilities on the Nevada Test Site are/will be subject to the renewed permit.

L-1-33
(cont’d)

Response to comment L1-1. A new section has been added to the EA, 1.3 Public Involvement and Scoping, and letters received during the scoping period have been included in Appendix A.

Response to comment L1-2. A new section has been added to the EA, 1.3 Public Involvement and Scoping.

Response to comment L1-3. The Airport Inspection Facility would include x-ray equipment for examining baggage and carry-on items typical of any airport in the United States. State of Nevada regulations for radiation control are found at Nevada Administrative Code 459. Those regulations include certain exemptions (NAC 459.120) for work conducted by the U.S. Department of Energy. As applicable, NNSA/NSO will consult with the Nevada Bureau of Health Protection Services to ascertain the applicability of NAC 459 to Rad/NucCTEC and equipment and materials used therein.

Response to comment L1-4. “Source-to-target” container distance refers to the distance between the accelerator to the cargo container wall, which would be approximately one meter.

Response to comment L1-5. Safety features at the Active Interrogation Facility would include a 6-foot high chain link fence surrounding the very high radiation area. The fence would have an active interlock system for immediate accelerator shutdown if the entrance gate were opened during operation. Any radiation areas would be posted with appropriate signs. Warning lights would be active when accelerators are in operation. Section 2.1.1 has been revised to clarify shielding, exclusion areas, and other safety mechanisms that would be used at the Active Interrogation Facility.

Response to comment L1-6. The SNM that would be used at Rad/NucCTEC is owned by NNSA. Radioactive sources that would be used at Rad/NucCTEC are owned by NNSA or would be acquired from various sources, including commercial vendors, national laboratories, etc. Although the preapproval draft EA used the term “medical isotopes,” it is important to note that there would be no medical use of radioactive materials at Rad/NucCTEC. However, isotopes with relatively short half-lives that are typically used for medical purposes will be used for tests and evaluations of detection equipment and for training at Rad/NucCTEC. For this reason, the term “medical isotopes” has been replaced throughout the EA with the term “short half-life isotopes.” NNSA/NSO anticipates that short half-life isotopes for use in Rad/NucCTEC would be acquired from licensed vendors. It is anticipated that short half-life isotopes would be used for a period of about one week following acquisition and then would be returned to the vendor(s) for disposition.

Radioactive materials that would be used at the complex are regulated under 10 CFR 835 while in the custody of NNSA. DOT regulations would apply to any shipments of radioactive materials. Radioactive materials acquired from or returned to a vendor would be regulated by NRC or an appropriate agreement state while in the possession of the vendor. Section 2.1.2.3 has been revised to include this information.

Response to comment L1-7. There is one FFACO site, a Corrective Action Site (CAS), located in the vicinity of the project area. It is located about 0.75 mile south of the proposed Rad/NucCTEC site, on the border between Areas 5 and 6. The CAS is an open well that appears to have been started and then abandoned. Section 3.1 has been revised to include this information.

Response to comment L1-8. SNM would be stored at the DAF at the end of each work day. The only exception to this would be when the “work day” is 24 hours and the complex is fully

staffed with security forces present. Section 2.1.2.3 has been revised to clarify this.

Response to comment L1-9. Radiological sources, other than SNM and short half-life isotopes would be acquired from NRC or agreement state licensees and transferred to DOE control. Section 2.1.2.3 has been revised to more fully describe non-SNM sources that would be used at Rad/NucCTEC.

Response to comment L1-10. All radioactive/nuclear materials would be protected in accordance with applicable requirements. Sections 2.1.2.3 and 2.1.3 of this EA describe nuclear operations that would occur at the Rad/NucCTEC and safeguards and security measures, respectively. The “nuclear implementation plan” referenced in section 2.1.3 of the preapproval draft EA is a project management tool used to document the steps that would be taken to comply with 10 CFR 830, *Nuclear Safety Management*. Section 2.1.2.3 of this EA has been revised to summarize the steps that would be taken to ensure Rad/NucCTEC compliance with 10 CFR 830.

Response to comment L1-11. The NTS, and in particular the proposed location in Area 6, was viewed by the sponsor and NNSA to be the best suited location for the Rad/NucCTEC for the following reasons: the presence of an established (existing) staging facility for SNM, located near the Rad/NucCTEC; an experienced federal/contractor work force; the ability to meet security requirements when working outside of a physical structure; isolated and restricted public access with relatively few encroachment issues due to the NTS being surrounded by other federal lands; and, NTS can meet the requirements of the new DOE Design Basis Threat. Section 2.2.2 has been revised to better describe the site selection process.

Response to comment L1-12. The administrative land withdrawals which compose the boundaries of the NTS were withdrawn for the use of the DOE’s successor Atomic Energy Commission for “weapons testing” and for purposes “in connection with” the NTS. Historical uses of the NTS have included a number of compatible activities in addition to the primary continuing purpose of weapons testing, including various “work for others” activities. The currently proposed activities are also compatible, and not inconsistent with, the ongoing availability of the NTS for use as a weapons testing site.

In response to comments on the draft NTS EIS, in 1996 the DOE committed to entering into a consultation process with the U.S. Department of Interior (DOI) to ensure that uses of the NTS would remain consistent with the purpose for which the lands were withdrawn. (As noted in the Agency for Nuclear Projects comment, a similar DOE commitment was entered into in settlement of a state of Nevada lawsuit.) The consultation process between the DOE and the DOI is still underway, and DOE has kept the State of Nevada apprised of this consultation through repeated correspondence with state of Nevada officials from 1998 through 2003.

Response to comment L1-13. As indicated in Section 8, Table 1, Public Water System Permit NY-0360-12-NTNC is applicable to the public water system that would supply the proposed Rad/NucCTEC. This permit is issued by the Nevada State Health Division under the Safe Drinking Water Act. Section 3.1.2, which contains a brief discussion of the NTS water system, has been revised to include this information. Table 1 has also been updated to correct the permit number.

Response to comment L1-14. Bechtel Nevada Waste Generator Services (BN/WGS) would establish one or more Satellite Accumulation Areas (SAA) at the construction site. After one drum of hazardous waste has accumulated in a SAA or upon completion of construction and disestablishment of the SAA(s), BN/WGS would be responsible for transport of the hazardous waste to the Resource Conservation and Recovery Act (RCRA) permitted

Hazardous Waste Storage Unit (HWSU) in Area 5. During the year when a sufficient quantity of hazardous waste has accumulated at the HWSU to make off-site shipping economical, a licensed vendor transports this waste to a RCRA permitted treatment/disposal facility for final disposition. Section 4.1.1.2 has been revised to more fully describe how hazardous waste would be managed during Rad/NucCTEC construction and operation.

Response to comment L1-15. There are no plans to generate low-level or mixed waste at the Rad/NucCTEC. All radioactive materials would be encapsulated or sealed, and would not intentionally be breached. Should any radioactive wastes ever be generated, the wastes would be managed in accordance with DOE Order 435.1, *Radioactive Waste Management*, using the processes already in place for managing radioactive wastes generated at the NTS. Low-level and mixed low-level waste generated on the NTS may be disposed of at the Area 5 Radioactive Waste Management Site. NNSA/NSO maintains RCRA-compliant interim status for Pit 3 at the Area 5 RWMS for disposal of mixed low-level radioactive waste generated on the NTS (Permit #NVHW009, Part V.A, March 1995; reissued November 2000). Bechtel Nevada Waste Generator Services works with waste generators to assure proper characterization of the waste and adherence to waste acceptance criteria.

Response to comment L1-16. State of Nevada regulations for radiation control are found at Nevada Administrative Code 459. Those regulations include certain exemptions (NAC 459.120) for work conducted by the U.S. Department of Energy. As appropriate, NNSA/NSO will consult with the Nevada Bureau of Health Protection Services to ascertain the applicability of NAC 459 to Rad/NucCTEC and equipment and materials used therein, including short half-life isotopes.

Response to comment L1-17. Storage of sources at Rad/NucCTEC is described in Section 2.1.2.3 of this EA.

Response to comment L1-18. See response L1-15 above.

Response to comment L1-19. If a radioactive waste were generated by SNM, the waste would be managed as low-level radioactive waste or Transuranic (TRU) waste, as appropriate. TRU waste generated at the Rad/NucCTEC would be stored on the existing TRU Waste Pad at the Area 5 Radioactive Waste Management Site pending shipment for disposal at the Waste Isolation Pilot Plant in Carlsberg, New Mexico. Also, see response L1-15 above.

Response to comment L1-20. Prior weapons testing at the NTS was limited to certain areas of the NTS that did not include the proposed project site. Much if not all of the radioactivity released as a result of atmospheric testing in the Frenchman Flat area decayed very quickly after each test was conducted. Areas contaminated from safety tests, or subcritical events, have undergone extensive surveys to delineate areas of radioactive contamination. The proposed project site was not found to be radioactively contaminated. Therefore there would be no exposure pathways or potential health impacts to workers, trainees and others from resuspension of radionuclides. Section 4.1.7 has been revised to clarify this issue.

Response to comment L1-21. An evaluation was conducted to determine if an application for approval of construction or modification would be required by EPA under 40 CFR 61.07 and 40 CFR 61.96. Following EPA guidelines in Appendix D to Part 61, "Methods for Estimating Radionuclide Emissions," an EPA CAP-88 model evaluation of the proposed facility was conducted and the maximum dose to an individual was determined to be below 0.1 mrem/yr, the limit above which an application to the EPA would be necessary. No emissions are anticipated from the proposed facility under normal operations. Section 4.1.7 has been revised to clarify this issue.

Response to comment L1-22. The NTS presently operates an EPA-approved site compliance air monitoring network for radionuclides that would include the proposed facility. Section 4.1.7 has been revised to include this information.

Response to comment L1-23. See response L1-20 above.

Response to comment L1-24. Section 4.1.11 has been revised to more accurately describe safety and health protection standards that will be applicable to the Rad/NucCTEC.

Response to comment L1-25. Section 5.1.1 has been revised to address activities that would be conducted at the NTS under *Environmental Assessment for Activities Using Biological simulants and Releases of Chemicals at the Nevada Test Site* (DOE/EA-1494).

Response to comment L1-26. Some NTS workers may perform tasks at multiple facilities where exposure to radioactivity is possible. All workers at NNSA/NSO sites are protected by a comprehensive radiation protection program, fully responsive to 10 CFR 835, *Occupational Radiation Protection*. The NNSA/NSO Radiation Protection Program is documented in *NV/YMP Radiological Control Manual* (RADCON Manual). The RADCON Manual specifies annual dose limits for workers, pregnant workers, minors, and members of the public. NNSA/NSO coordinates all activities at the NTS through its Site Operations Center to prevent conflicts associated with site use. NNSA/NSO has detailed emergency response/management plans for each facility at the NTS and for the NTS in general. If an accident were to occur at Rad/NucCTEC appropriate emergency response plans would be implemented and steps taken to protect the health and safety of potentially affected personnel. Section 5.1.10 has been revised to incorporate this information.

Response to comment L1-27. This comment refers to the potential for harmful health effects to individuals working at the Yucca Mountain Project (YMP) who are exposed to radiological materials accidentally or intentionally dispersed under the proposed action. Anytime a person is exposed to a significant quantity of radiation there is a potential for harmful health effects. Since all radioactive materials used at the facility would be totally sealed and would be used only in that form, there is no plan to intentionally disperse radioactive materials. Therefore, the only way that a worker at YMP could be exposed would be due to an accident of sufficient energy combined with proper weather conditions to disperse materials and carry the dispersion to the YMP. The NNSA has developed a methodology of analysis, planning and program implementation to minimize the potential for accidents, as well as the mitigation of consequences in the remote possibility of an accident occurring. Modeling is performed using quantity and form of materials at risk (in this case radionuclides expected to be present at the facility), weather and terrain conditions, and distances to workers and the public. The results of that modeling provide information that is used in the planning of facility design and the construction of safety structures, systems, and components (for example, shielding and fire suppression systems) so that the potential for accident and consequence of the accident are minimized. (See Section 7.0, Hazards Analysis for further discussion on this topic). In addition, each operating facility at the Nevada Test Site (NTS) is required to prepare an Emergency Management Hazards Assessment (EMHA) that identifies hazards during an emergency as well as the response to envisioned emergencies. EMHAs also identify personnel at the facility that are responsible for taking action, notification and response procedures, evacuation routes, etc. There is an established Emergency Management network at the NTS that provides interface with the facility personnel in the event of an emergency for coordination of site-wide response, including YMP personnel. Simulated emergencies are required to be performed at all facilities on a regular basis to exercise the emergency response capability at the NTS. All these activities would contribute to make the risk posed to YMP workers from Rad/NucCTEC extremely low.

Response to comment L1-28. See response L1-20 above.

Response to comment L1-29. Currently there are no potential emission sources at the proposed complex that would require modification of the NTS Class II Air Quality Operating Permit. Surface disturbances associated with construction of the Rad/NucCTEC are regulated by a site-wide surface disturbance that is part of the NTS Class II Air Quality Operating Permit (see Section 8.4, Table 1) and as such requires the control of fugitive dust.

Response to comment L1-30. See response L1-20 above.

Response to comment L1-31. See response L1-22 above.

Response to comment L1-32. Section 7.0, Accident Analysis has been re-titled “Hazards Analysis” and revised to describe the rigorous hazard identification and mitigation process that NNSA/NSO will use to ensure that adequate and appropriate engineering and administrative controls are incorporated into the design and operation of Rad/NucCTEC.

Response to comment L1-33. Section 8, “Regulatory Requirements” has been revised to incorporate additional requirements that may be applicable to the Rad/NucCTEC.



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July 5, 2004

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NEPA Document Manager
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*Re: Citizen Alert Comments on DOE/NNSA's Pre-approval Draft
Environmental Assessment for a Radiological/Nuclear Countermeasures Test
& Evaluation Complex at the Nevada Test Site (DOE/EA-1499)*

Dear Mr. Schmidhofer:

Citizen Alert is extremely concerned about any further plans for the Nevada Test Site (NTS) until we get some response to the concerns we have sent to the Department of Energy as well as to our Governor.

In May of this year we released a report on NTS and the groundwater contamination caused by the years of testing. We believe the citizens in this state and neighboring states have been lied to by this government and we need more answers and some action before we sign off on any additional testing.

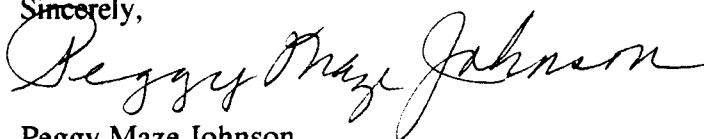
This fall we will be holding "town hall" meetings around the State and we will be sharing our findings about this groundwater contamination with our fellow citizens. I am sure they will have a lot to say about your proposal after they have read our report.

We are proposing that you extend your deadline until after November, 2004, so people who are affected get the information they need to make an informed response to yet another assault on our lands.

We have grave concerns about the materials you intend to store and use in this "countermeasures test and evaluation complex" and what kind of security you intend to employ. The information we have received is sketchy, at best and we believe additional hearings are called for to answer our concerns.

We look forward to hearing from you.

Sincerely,



Peggy Maze Johnson

L-2-1

L-2-2

Response to comment L2-1. The basis for the commenter's request for extending the deadline for comments on the EA until after November 2004 is based upon an assumption that the proposed project would adversely impact groundwater. Based on the analysis described in Section 4.1.5.2, NNSA/NSO has determined that the requested extension is unwarranted.

Response to comment L2-2. Section 2.1.3 has been revised to provide additional information on measures for securing special nuclear material and all other radioactive materials that would be used at the proposed facility. Although it is agreed that security of these materials is critical, specific details of safeguards and security plans are not subject to public review and comment. Therefore, the requested public hearings are not warranted



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*Citizen Alert's Additional Comments (July 6, 2004)
on DOE/NNSA's Preapproval Draft EA for Using Biological Simulants and Releases of
Chemicals at the Nevada Test Site*

Citizen Alert questions the extent of consultation with Native American tribes and nations in developing this EA. For example, section 4.1.10 states "Based upon previous intensive pedestrian surveys by qualified archaeologists, no significant cultural resource sites exist in the area of potential effect for the proposed project." Who were these qualified archaeologists? Did the DOE/NNSA consult with the Western Shoshone and Southern Paiute regarding cultural sites? As the historical aboriginal residents of the land the DOE/NNSA should be required to acquire their approval, in our opinion, in order to move on this project. At the very least there should be consultation which we found no mention of in the EA.

L-3-1

The need for this facility is not made clear in the Draft EA. Citizen Alert recognizes the implication of the Sept. 11, 2001 terrorist attack; however, the Draft EA does not delineate the extent of existing test and countermeasures facilities, which is required to provide a grounding basis for this facility.

L-3-2

There are many Nevadans that would like to see portions of the Nevada Test Site reclaimed for other than restricted use. It is concerning that the DOE/NNSA may continue to adjoin to the "existing mission" of the Nevada Test Site as described in the *Final Environmental Impact statement for the Nevada Test Site and Off-Site Locations in the State of Nevada* at the whim of the current political climate. If indeed the mission of the NTS is to be an evolving concept such that the land is to be effectively "in reserve" for future defense needs currently not defined then the DOE/NNSA should clarify this agenda.

L-3-3

Section 6.0 of the Draft EA suggests possible mitigation of the loss of Desert Tortoise habitat. Citizen Alert challenges the effectiveness of this procedure as the Desert Tortoise is quite sensitive to changes in habitat. The EA sites no examples of where habitat restoration and tortoise relocation has been done successfully elsewhere. In fact, it is likely that evidence exists to the contrary from the attempts to locate a low-level radioactive waste dump in Ward Valley California, which fell under great criticism regarding impacts to the Desert Tortoise. Therefore, Citizen Alert sees this section of the EA to be deficient.

L-3-4

In closing, Citizen Alert further stress the need for public outreach on this proposal. During the entire period of comment gathering leading up to July 6, 2004 the DOE/NNSA has not conducted a single public meeting or scoping. While such a process is not required by law, the public has a right to be well informed as to how their land is too be used and there should be the opportunity for active public discourse regarding such government activities. Certainly given the history of poor disclosure of defense/DOE related activities in Nevada it certainly behooves the DOE/NNSA to be more mindful of important and needed public engagement.

L-3-5

Prepared by John Hadder, Northern Nevada Coordinator

Response to comment L3-1. NNSA/NSO contracts with the Desert Research Institute (DRI) for cultural resources support. DRI is funded to maintain a cadre of qualified professional archaeologists who exceed the Secretary of the Interior Standards and Guidelines for Archaeology and Historic Preservation, 30 CFR Part 61. The surveys of this area were conducted by DRI archaeologists. As stated in the EA, there are no significant cultural sites in the area of potential effect for the proposed project.

Consultation with the tribes was accomplished through the draft EA process. Copies of the draft EA were distributed to 17 tribal chairpersons and 23 tribal representatives. No comments or questions were received from the tribes.

Response to comment L3-2. Although there are other facilities in the country that are performing detector test and evaluation activities, none of these facilities are categorized as a Nuclear Hazard Category II facility. This limits the types of material that can be used in those facilities. In addition, a key purpose for constructing the Rad/NucCTEC at the proposed location is the proximity of the Device Assembly Facility, which will house the SNM materials to be used at the facility.

Response to comment L3-3. The NTS EIS addressed a wide range of ongoing, planned, and potential activities at the NTS. The Record of Decision for the NTS EIS stated, in part, "The DOE Nevada Operations Office [National Nuclear Security Administration Nevada Site Office] Work for Others Program will continue to be an important aspect of Nevada Test Site related activities. These ongoing activities primarily involve the Department of Defense, the Defense Special Weapons Agency [Defense Threat Reduction Agency], and other federal agencies. The primary focus of these activities is centered around treaty verification, nonproliferation, counterproliferation, demilitarization, and defense related research and development." The proposed Rad/NucCTEC falls within the kinds of activities contemplated in the NTS EIS and ROD.

Response to comment L3-4. In the US Fish and Wildlife Service (FWS) Biological Opinion for the Nevada Test Site (1996), the FWS states that a viable mitigation measure for loss of tortoise habitat is revegetation of disturbed areas. This mitigation measure is common in many Biological Opinions that the FWS issues to various agencies and companies that disturb land in tortoise habitat. Since it is the responsibility of the FWS to protect desert tortoises, DOE will comply with their Biological Opinion on appropriate mitigation measures. Desert tortoise relocation is a common practice in Nevada with many of the individuals that have been removed in the Las Vegas Valley being relocated to the area south of Jean where they are being monitored by FWS and/or BLM personnel. There are numerous examples of successful habitat reclamation in the Mojave Desert. The commenter is referred to the work done by the Desert Manager's Group under the working group - Desert Lands Restoration. This working group is an interagency effort that includes private and university professionals involved in land restoration. They have published various articles and reclamation manuals on desert land reclamation (Bainbridge et al 1998). The DOE has also funded research on habitat reclamation on and near the NTS and has demonstrated that habitat reclamation is feasible (CRWMS 1999).

Bainbridge, D., R MacAller, M. Fidelibus, A. Newton, A.C. Williams, L. Lippitt, and R. Fransen. 1998. A Beginner's Guide to Desert Restoration. Second Edition. Department of Interior, National Park Service, Lake Mead National Recreation Area.

Civilian Radioactive Waste Management System. 1999. Reclamation Feasibility Studies at Yucca Mountain, Nevada: 1992-1995. B00000000-01717-5700-00003. U.S. Department of Energy. Washington, D.C.

Response to comment L3-5. A new section, 1.3 Public Involvement and Scoping, has been added to this EA.

CITIZENS EDUCATION PROJECT

June 19, 2004

Dirk Schmidhofer
NEPA Document Manager
National Nuclear Security Administration
Nevada Site Office
P.O. Box 98518
Las Vegas, NV 89193

Dear Mr. Schmidhofer:

The Citizens Education Project (CEP), a Salt Lake City-based nonprofit organization, submits the following comments on the Preapproval Draft Environmental Assessment for Radiological/Nuclear Countermeasures Test and Evaluation Complex, Nevada Test Site (DOE/EA-1499).

First, we formally request that the DOE/NNSA conduct a public hearing on this EA in St. George, Utah to inform the public about this proposal and accept verbal comments, prior to the close of the comment period. If necessary, the comment period should be extended to accommodate this hearing and allow for time for citizens to submit written comments for 10 days following the hearing. Given Utah's disastrous experience with exposures to fallout from NTS nuclear tests, there will be considerable concern in "downwind communities" about the nature and potential impacts of this project. DOE/NNSA should do the responsible thing and address those concerns directly and in person.

L-4-1

Second, our conclusion after reviewing the EA is that it fails to adequately address and explain the potential impacts and the mitigation measures to be taken to minimize those impacts, as detailed below. For these reasons, the EA should not be approved and a full Environmental Impact Statement and process should be prepared and conducted.

L-4-2

Citing the NTS EIS (DOE,1996), the EA states that "impacts to off-site populations from activities on the NTS were identified. While low-income and minority populations do exist, it was found that **no populations existed that were subject to disproportionately high adverse effects.**" [3.13, emphasis added] We strongly disagree and object. Adverse effects to many thousands, if not millions of Americans due to nuclear testing at the NTS are well-known and documented. To dismiss this reality is offensive.

L-4-3

L-4-4

The EA states that the Rad/Nuc CTEC would have no environmental justice impacts (4.1.13), and states in several other sections that there would be no off-site impacts to human health. We would might accept this claim if there were thorough analysis and sufficient assurances elsewhere in the EA that nothing will go wrong, that there will be no accidents, sabotage, terrorism, or other incidents during transportation or operation of the complex that would result in loss of radiological sources or dispersion of their contents.

However, the EA states that the nuclear implementation plan has not been developed yet. The administrative and engineering controls that will be implemented are not explained. We would point out that SNM and other radiological sources are lost and/or unaccounted for nationally in alarming numbers with disturbing frequency. Without a plan in place, and with controls only vaguely referred to, assurances by the DOE/NNSA that sources to be used in this project will be safe and secure are less than reassuring. A full EIS should delineate sufficiently the nuclear implementation plan and the administrative and engineering controls so that the public can evaluate this aspect of the Rad/Nuc CTEC.

L-4-5

The use of accelerator produced radiation fields and a neutron beam (p.6) are inadequately explained and the measures to protect personnel from potentially unsafe radiation doses is not sufficiently addressed in the EA.

L-4-6

The EA evaluated no alternative sites other than different locations on the NTS. This is not adequate. Sites at other DOE, DOD, or federal facilities/installations should have been studied as alternatives. This is particularly important and necessary since the EA does not address whether the proposed action is consistent with the reason for the original land withdrawal for NTS – nuclear weapons testing. A full EIS should examine non-NTS alternative sites.

L-4-7

The EA should have, but does not address the potential health effects upon personnel during construction and operation of the Rad/NucCTEC from the re-suspension due to ground disturbance of radioactive particles from fallout from nuclear weapons tests.

L-4-8

Lastly, the EA cumulative effects analysis fails to account for anticipated “incremental impacts of the proposed action when added to other past, present and **reasonably foreseeable future actions**...taking place over a period of time”, as required by 40 CFR 1508.7. [emphasis added] The EA does not address, as requested by CEP and by the State of Nevada in comments submitted in response the NOI, cumulative impacts and potential mission incompatibilities with the (EA for) Using Biological Simulants and Releases of Chemicals at the NTS, on-going low-level radiological waste (including possible disposal of Fernald wastes), mixed LLW and hazardous waste and transuranic waste activities at NTS, possible high level radioactive waste disposal at Yucca Mountain, and most importantly, the potential resumption of nuclear weapons testing at NTS. Certainly, DOE/NNSA would not argue that these activities are not reasonably foreseeable, and we would assume that, due to the hazardous nature and potential of those activities, they would be deserving of analysis as actions that have “collectively significant” cumulative impacts. Failure to address these impacts are sufficient in and of themselves to make a FONSI for this EA inappropriate and unsupportable, and a full EIS necessary.

L-4-9

Respectfully,

Steve Erickson, director
Citizens Education Project

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Response to comment L4-1. As described in Chapter 4.0 Environmental Effects, there would be no offsite impacts from Rad/NucCTEC operations. Based on this fact, NNSA/NSO determined that conducting the requested public meetings in “downwind” communities would not be warranted.

Response to comment L4-2. Based upon this EA and considering all of the comments received, NNSA/NSO will determine if a full environmental impact statement is necessary to adequately address the environmental impacts of the proposed Rad/NucCTEC or if a finding of no significant impact is supported.

Response to comment L4-3. The commenter’s objection is referring to the testing of nuclear weapons at the NTS. There has not been a nuclear detonation at the NTS since September 1992. Although the proposed action would include the handling of Special Nuclear Materials, nuclear testing (i.e. detonation of nuclear weapons) would certainly not be conducted at Rad/NucCTEC and there would be no adverse impacts to any off-site populations.

Response to comment L4-4. Sections 2.1.2.3 and 2.1.3 of this EA describe operations and safeguards and security for Rad/NucCTEC.

Response to comment L4-5. Section 7.0 has been revised to describe the iterative process that is used to identify and mitigate against potential hazards that may be posed by a proposed nuclear facility, such as Rad/NucCTEC. Also, see response L1-10 above.

Response to comment L4-6. See response L1-5 above

Response to comment L4-7. See responses L1-11 and L1-12 above.

Response to comment L4-8. See response L1-20 above.

Response to comment L4-9. Section 5.1.1 has been revised to address activities that would be conducted at the NTS under *Environmental Assessment for Activities Using Biological simulants and Releases of Chemicals at the Nevada Test Site* (DOE/EA-1494) as well as other ongoing and proposed projects. Also, see response L1-27.

July 4, 2004

Vernon Brechin
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Mr. Dirk Schmidhofer
NEPA Document Manager
National Nuclear Security Administration
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P.O. Box 98518
Las Vegas, Nevada 89193

*Re: Comments on DOE/NNSA's Preapproval Draft Environmental
Assessment (EA) for Radiological/Nuclear Countermeasures
Test and Evaluation Complex at the Nevada Test Site
(DOE/EA-1499)*

Dear Mr. Schmidhofer:

Attached are my comments on the above-referenced draft
EA.

Thank you for the opportunity to comment on this
important matter.

Sincerely,



Vernon Brechin

cc Robert Loux, NWPO
Steve Robinson, Governor's Office
Allen Biagi, NDEP
Terre Maize, NDEP
David Tomsovic, USEPA
Peggy Maze Johnson, Citizen Alert of Nevada

Vernon Brechin's comments on the
U.S. National Nuclear Security Administration's
Preapproval Draft Environmental Assessment
for a Radiological/Nuclear Countermeasures Test
and Evaluation Complex,
Nevada Test Site (DOE/EA-1499)

General Comments

Little effort seems to have been made to notify the public concerning this proposed project which I will refer to as the TEC. Support of an open democratic system of government requires actions which go well beyond minimal requirements. Those who control our nation's nuclear arsenal need to clearly demonstrate the principles they stand for.

Upon issuance of the 1996 Nevada Test Site Environmental Impact Statement (NTS EIS) the U.S. EPA formally requested the NTS management to make a greater effort to notify key agencies and other interested parties of future NEPA actions. In response the DOE's NTS Record of Decision (ROD) contained the following statement. "The DOE will ensure that future tiered NEPA documents (including EAs) are circulated for review and comment to all affected and interested parties." (61 FR 65554, 3rd column, middle). Apparently, this EA process failed to meet, such standards. In such cases accountability, backed up with stringent penalties are in order.

Each NNSA contractor that may have been involved in the preparation of this EA process should be identified along with contact address and phone numbers. Included in an appendix should be statements that their involvement involves no conflict of interest.

L-5-1

The following comments refer to the TEC, or to the proposed facility even if NNSA manages to rename it.

Specific Comments

Section 1.2 - Purpose and Need for Proposed Action

The final EA, or EIS, should provide an appendix which details the decision tree that led to this proposal and all the funding sources, including the Public Law

L-5-2

line items that specify the funds for the initial studies and this EA process.

As proposed, this facility does not significantly add to the employment base of the Las Vegas region. The remote location necessitates lengthy commutes for experimenters, trainers and trainees once operations start.

L-5-3

Section 2.0 - Proposed Action and Alternatives

2.1.1 - Facility Description: On page 2, index line 39 is mention of possible future expansion. Typically, such mention takes place after some resources have been expended on initial planning for such elements. The final EA should include a full analysis of all elements or venues that are mentioned in the draft EA such as the railroad components. At a minimum the full 100 acres should be assessed in the final EA and a detailed map should be provided along with a table that provides survey boundary coordinates based upon a precision GPS survey. Copies of the map, a statement of the planned use of this land and the geographic coordinate data should be sent to the local BLM and EPA offices at least one month before NNSA makes any key decisions on the proposed project. Unlike the draft EA, the final analysis should not pick and choose those components which can be quickly assessed. Consistency is needed throughout the EA.

L-5-4

Active Interrogation Facility - If the tests involve special nuclear materials (SNM) in the form of fielded or stored nuclear weapons from the U.S. stockpile, then what will be the policy concerning announcing the presents of such weapons at the TEC? If such weapons will be present at the site will additional measures be taken to safeguard them? Will similar policies be applied to the use of weapons physics packages, or similar key weapons components, which could be transported to and from the DAF storage bunkers and the TEC? The relationship between Nuclear Material Safeguards Category I and II SNM to actual nuclear weapons or their physics package components should be described in a sidebar.

L-5-5

In the case of the "Accelerator-produced radiation fields" what types of machine and personnel safety measures will they involve? Will there be multiple interlocked safety features? When "high activity neutron-emitting radionuclide" is used what materials will be used to confine the neutron beam to the intended target area? What will be the mass and configuration of the shielding

L-5-6

materials? The final EA or EIS should address all these issues including analysis of radiation due to neutron induced sky-shine. Will there be preventive measures taken to prevent neutron exposure to wildlife, including plants. The final EA should address the neutron activation of all materials in the source and target areas. If sufficient activation occurs what will be the plans for decay storage or material disposal?

L-5-6
(cont'd)

High-Speed Road - A map is needed showing where this road might overlap existing roads. The present state of this planned route should be fully described stating whether any of it is presently cleared, graded and paved for use as planned. All areas of presently undisturbed habitat that would be disturbed by the proposed and conceptual expansions should be noted along with the total acreage.

L-5-7

High-Speed Road - Realistic testing may require that the target or suspect nuclear materials not be confined within safe containers. Potential smugglers should not be expected to try and meet all U.S. shipping safety requirements, including housing their devices in crash tested shipping casks. If the test objects are housed in flimsy containers in truck trailers or railroad cars and there is a high-speed accident then there is strong possibility of the uncontrolled release of radioactive materials into the environment. The final EA or EIS should address this issue for all the facilities proposed and it should fully access all, potential worst-case accidents.

L-5-8

2.1.2 - Construction and Operations / 2.1.2.3 - Nuclear Operations: The relationship between Nuclear Material Safeguards Category I and II SNM to actual nuclear weapons, or their physics package components, should be described in a final EA, or EIS, sidebar. The TEC draft EA states that up to 50 kg of highly enriched uranium and other SNM components in various shapes and sizes up to several kg each could be used at the proposed facility. This description suggests that actual nuclear weapons or key components of their physics packages could be utilized for the test and training operations at the TEC. As a result, NNSA should upgrade the environmental analysis to a NEPA driven Environmental Impact Statement (EIS).

L-5-9

L-5-10

On page 9 of the EA, line 4, it states "(T)he radioactive source materials would not be processed, altered or modified in any way." This may be false. The source material could be U-235, U-233, or Pu-239 which upon

L-5-11

exposure to the high-flux neutron source will fission releasing radiation that detectors sense. The fission of some of the atoms in this target turns it into a source which is a product of the deliberate alteration of some of its component atoms. Another statement is needed concerning the deliberate alteration of target materials, by neutrons, to detect the target materials. The final EA, or EIS, should explain whether radiation shielding and transport containment structures will be removed from the source/target materials so as to present a more realistic example of an improvised, smuggled nuclear device. Finally, since the high-flux neutrons will result in neutron activation of many materials (including the air) in the general area of the target package, these materials will be altered, requiring monitoring and proper handling of these materials. For example, some of the iron in the truck, or the railroad car, will be converted into radioactive iron isotopes.

L-5-11
(cont'd)

L-5-12

L-5-13

If the proposed TEC results in usable materials becoming radioactive then those materials may require special disposal which can be quite costly.

On line 30 of page 9 of the draft EA it states that the expected lifetime of the proposed facility is 20 years. That suggests that NNSA expects it to take two decades to develop the technology and train the personnel. Much of this technology may not be practical to implement at scores of port facilities throughout this country.

The termination of the mission of the TEC is also addressed in this paragraph. As I mention a few paragraphs below, DOE has an atrocious record for recovering the value of its original property investments. In fact, the public is presently stuck with an over \$100 billion bill for DOE facility cleanup efforts.

2.1.3 - Safeguards and Security: The development of a "Rad/NucCTEC nuclear implementation plan" should not serve as an excuse to preclude a full-blown NEPA derived EIS process. NEPA does not provide for such exemptions.

L-5-14

2.2 - Alternative Actions: The final EA should name the contractor that did the "rigorous site evaluation process," should list the report involved and should cite the pages devoted to each site. In addition, rather than briefly noting the sites that were rejected, the final EA should

L-5-15

devote more space to describing why the seven alternative sites were rejected.

The draft EA failed to address the potential use of alternative sites or facilities that lie beyond the NTS boundary. The proposal involves construction of a large mock land border crossing facility (Port of Entry--Primary), a large truck inspection facility (Port of Entry--Secondary), portions of an international airport including a mock wide-body aircraft fuselage section (Airport Inspection Facility), a large remote cargo handling area (Active Interrogation Facility), a large environmental testing lab (Environmental Test Facility), a 400 foot remote controlled operations area (Sensor Test Track), and a greater than two-mile long - 2-lane paved highway section (High-Speed Road). Future expansion may include a short length of full-scale railroad line adjacent to the High-Speed Road and other facilities. Also envisioned is a mock seaport facility including shipping containers, a gantry crane, and a mock cargo ship. Even a mock urban area has been envisioned by the NNSA/NTS site development planners. This proposal goes well beyond the early atmospheric testing days when a small mock Japanese village was built on site to test the effects of atomic explosions.

L-5-16

The proposed facility's construction and operating costs, could exceed \$100 million. Alternatives should be considered such as the temporary use of existing port facilities. This would likely result in more realistic test conditions that could be readily implemented at a wide variety of existing port facilities. The present proposal paints a picture of a series of highly specialized, very expensive facilities which may not be practical to implement at scores of port facilities throughout this nation.

L-5-17

During the past decade the DOE has spent over a billion dollars on many super-computer centers designed to computer-model a wide variety of situations including nuclear explosion processes. The final EA or EIS should consider the alternative of using these existing computer centers to model many of the aspects of the proposed TEC.

L-5-18

The proposed mock port facilities are to be located in a remote desert area, approximately 60 miles from a major population area. Once the testing is terminated, due to deployment of the technology or due to termination of public funding, all the facilities will have no value as

L-5-19

port facilities. Consideration should be given to DOE's extensive track record for getting very little monetary return for surplus facilities. A good example involves the terminated Superconducting Super Collider (SSC) project near Waxahachie, Texas. The Nevada Site Office has spent at least a decade trying to sell the NTS for commercial enterprises. The path is littered with failures which includes several plans for solar energy plants, wind turbine farms and space ports. The proposed TEC is situated near the Device Assembly Facility (DAF) which is an extremely costly facility that's been in search of a mission for well over a decade. The proposed TEC could help justify the up-keep of this property.

L-5-19
(cont'd)

CEQ regulation Section 1500.2(e) - Policy, only mentions the human environment. The policy was established before there was an awareness of things like global climate change. The past narrow focus on the human environment is rapidly destroying the natural environment for all creatures. It would make better sense to consider the natural environment, first and foremost.

L-5-20

Section 3.0 - Affected Environment

3.1 - Land Use: The NTS consist of public lands which were withdrawn from most public uses for the sole purpose of atomic weapons testing. At the conclusion of the testing, which occurred almost 12 years ago, the land was supposed to be returned to the public domain. The failure to do so is a mark of lack of accountability driven by zero enforcement and no serious penalties. The draft EA failed to mention this issue. The State of Nevada has requested efforts to resolve the use issue and the NSO stated it would make an effort, beginning almost a decade ago. Evidence of this effort claim exist in the NTS ROD which contains the statement "DOE commits to continuing its informal consultation with BLM as to whether the four major land withdrawals that comprise the NTS need to be updated." (61 FR 65557, 3rd column, middle). The term 'informal' often is a reference to no evidence represented by a failure to generate a paper trail. The implementation of severe penalties for inaction might be in order to get managers, who claim to be public servants, to initiate some real action.

L-5-21

After the final EIS was issued in 1996 a Record of Decision (ROD) was published in the Friday, December 13, 1996 edition of the Federal Register (61 FR 65551). In response

L-5-22

to comments from the U.S. EPA, the DOE stated that "when possible; new facilities will be sited in, or as close as possible to, previously disturbed lands in order to preserve and protect undisturbed land." (61 FR 65554, 3rd column, middle) It appears this provision was largely ignored for this proposed TEC facility since the EA states "(t)he proposed location is in undisturbed habitat." A serious lack of accountability may explain this disregard for the EPA's recommendations. It also appears to constitute a blatant violation the NNSA's Nevada Site Office NTS Resource Management Plan (RMP) goals. The ROD and follow-up RMP are not listed in the draft EA reference section. The selective omissions, of such important background documents, should be rectified in the final EA, or EIS.

L-5-22
(cont'd)

L-5-23

3.3.1 - Groundwater: The final TEC EA should provide more than bland pabulum for this section. The draft EA serves as a fine example of how government officials can employ omission to justify an existing agenda.

The NTS hosted 824 underground nuclear explosion tests. Of those about a third were conducted below the local water table or just above it. The result is that large amounts spent nuclear fuel like debris is buried near the blast centers. Recent estimates lists the level of buried radioactive debris at 132,100,000 Curies. There are no plans to remove this debris due to numerous impracticalities. The proposed TEC lies down-gradient of the major Yucca Flat testing area and near the Frenchman Flat testing area. The final EA, or EIS should list the following two DOE reports in the reference section.

"Focused Evaluation of Selected Remedial Alternatives for the Underground Test Area" (DOE/NV--465), April 1997, Environmental Restoration Division, Nevada Operations Office, U.S. Department of Energy, North Las Vegas, Nevada, 89030-4134.

<http://www.osti.gov/servlets/purl/469154-I18yqP/webviewable/469154.pdf>

See Table 8-1 on paper page 8-3 (PDF page 137 of 153).

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"Nevada Test Site Radionuclide Inventory, 1951--1992" (LA-13859-MS), September 2001, Los Alamos National Laboratory, Los Alamos, New Mexico 87545.

<http://www.nv.doe.gov/news&pubs/publications/envm/pdfs/LA13859MS.pdf>

See Table V on paper page 21 (PDF Page 22 of 29).

Mention should also be made to the primary mission of the NTS - to remain ready to resume experiments with full-scale underground nuclear explosion testing. This is not unlikely given the fact of a strong political force, exist in this country to restart the test program. This is all part of the affected environment of the proposed TEC.

L-5-25

Section 4.0 - Environmental Effects

4.1.1.2 - Infrastructure / Power and Communications:
The estimated operational power consumption, of the expanded TEC, is given as 1,000,000 kilowatt hours/year. This indicates that expansion planning has already taken place. The final EA, or EIS, should assess the entire expanded facility concept. Converting the above figure indicates that the operational facility would consume energy at an average rate of 114 kilowatt hours. Considering the effort DOE makes in telling our children that it strongly supports use of alternative energy sources, DOE should make an example by powering this facility with a solar electric, or a wind turbine farm. The 1996 NTS ROD mentions that such farms were planned for the NTS, but after the ROD was issued they were canceled. DOE also reminds the public about the importance of conserving energy. A good example of that would involve canceling the proposed TEC and turning much of the task over to its numerous super computer centers which already consume many megawatt hours of electricity.

L-5-26

The final EA, or EIS, should include figures for the estimated quantities of fuel needed for construction and annual operation of the completed facilities, including the expanded version. It should also provide an estimate of the fuel that would be consumed by the commute transport busses as well as by workers and trainees that might chose to commute in company and private vehicles. With DOE's claimed concern about global climate change and carbon dioxide emissions the impact of these 140 miles commutes are important.

L-5-27

4.1.7 - Air Quality: This section should be broken into at least two sections, 4.1.7.1 for particulates and 4.1.7.2 for radioactive emissions. Reference to the use of a approved EPA-approved computer modeling tool, CAP-88, is insufficient. In order for the public and various agencies to evaluate NNSA's assessment, they need key pieces of data such as what data was feed into the computer model and what

L-5-28

was the output. If all the sources to be used are sealed sources then what type of emissions were fed into the computer model? Another factor is what was the target population set to? Was it a member of the public, outside the NTS boundary, at a distance of six miles? A more scientifically ethical approach would be to implement a rigorous TEC monitoring program that would be under the full control of Nevada State agencies, not NNSA's traditional contractors.

L-5-28
(cont'd)

Section 5.0 - Cumulative Effects

The final EA, or EIS. for the TEC should clearly state the cumulative impacts already rendered to the loaned public lands known as the Nevada Test Site (NTS). A DOE NTS remediation study estimated that partial remediation of the underground test areas could cost up to \$7.29 trillion. Due to various impracticalities the high cost options were rejected in favor of a monitoring program costing about 800 times less. If the \$7.29 trillion represents the level of environmental damage rendered to this land then it could be said that huge liabilities are being passed on to future generations. With such massive liabilities in place one must ask, why are more costly NTS projects about to built there? One answer is that the liabilities have been successfully swept under the rug and people's memories tends to be short.

L-5-29

Section 6.0 - Mitigation Measures

The final EA should contain a detailed plan for ongoing monitoring of radiation and radiological emissions/exposures at the proposed TEC. In addition, all operating power should be derived from a solar electric plant constructed at the NTS. The offer to pay money for loss of animal habitat demonstrates the level of understanding NNSA has for the planet's biosphere.

L-5-30

L-5-31

Section 7.0 - Accident Analysis

The draft EA contained only vague references to an accident analysis process without any details concerning what was studied or the basis behind the NNSA conclusion that little probability existed of a serious accident. The reference section contained nothing that appeared to be an accident analysis for this proposed project. This demonstrates contempt for the NEPA law. The final EA, or EIS, should provide a full set of details concerning what was analyzed,

L-5-32

who performed the analysis, and whether the analysis was reviewed by an institution which has no interest in NNSA's projects. The report should include a full set of conclusions, including the data figures that led to the conclusions. The NNSA contractors who design, construct and operate the facility, should be required to sign a statement indicating that they will take full responsibility for all accidents that occur at the facility including making payments for personnel and property impacted by such accidents. This should include all cleanup and disposal costs. The agreement should insure that the contractor does not charge the NNSA for its expenses or that it later be reimbursed for these costs. If an accident is judged to be the responsibility of the NNSA then the costs should not be borne by present or future tax payers but, instead, be handled by cuts in other NNSA programs.

L-5-32
(cont'd)

L-5-33

What assurances, will the public have, that measures will be taken to prevent target sources from being removed from regulated safety containment structures so as to present a more realistic example of the sort of improvised device a smuggler would use? If test target analysis is to be done realistically then those targets will not be enclosed in their regulatory shipping containers. In such cases, accident analysis which are based on properly packaged materials, are moot. In such cases, a new, extensive, accident analysis will need to be conducted.

L-5-34

Section 8.0 - Regulatory Requirements

The single sentence reads "(T)his section briefly describes some of the major federal and state laws and regulations, executive orders, and DOE Orders that may apply to the proposed action and alternative." Its followed by no description, only a list of reference documents, some of which may have little to do with the proposed TEC. Since it list only "some" of the documents, the draft EA reader has to assume that many holes remain. This is an insult to reviewers. The omission of key DOE/NV driver documents such as the FAACO and the Agreement in Principle demonstrates contempt for a federal court mediated settlement agreement.

L-5-35

Conclusion

The No Action Alternative of Section 2.2.1 should be chosen and this expensive EA process ended. Most of the planned

L-5-36

activities can be conducted through brief requisitions of existing port facilities and through the use of computer modeling utilizing a half-dozen super computer centers located throughout this nation.

L-5-36
(cont.)

Response to comment L5-1. NNSA/NSO is responsible for the content and accuracy of this EA.

Response to comment L5-2. Section 1.2 of this EA addresses the purpose and need for the proposed project. The proposed project is funded by the U.S. Department of Homeland Security.

Response to comment L5-3. Comment noted.

Response to comment L5-4. The analysis for this EA addressed impacts to the full 100 acres that represent the full development of the Rad/NucCTEC, including potential venues. The figures provided in the EA are adequate for purposes of describing the location of the proposed project. A precise map of venue locations within the project area would not enhance the impact analysis; There is no requirement to send the suggested detailed information to EPA. NNSA/NSO completed the analysis necessary to determine if an application for approval of construction or modification would be required by EPA under 40 CFR 61.07 and 40 CFR 61.96. Following EPA guidelines in Appendix D to Part 61, "Methods for Estimating Radionuclide Emissions," an EPA CAP-88 model evaluation of the proposed facility was conducted and determined to be below 0.1 mrem/yr, the limit above which an application to the EPA would be necessary. No emissions are anticipated from the proposed facility under normal operations. Copies of the preapproval draft EA were provided to three offices of the Bureau of Land Management, including the State Director. The same offices will also receive a copy of the final EA and NNSA/NSO's determination that either an EIS is necessary or that a finding of no significant impact is supported.

Response to comment L5-5. NNSA does not make public announcement of the presence or movement of special nuclear materials or nuclear weapons in order to ensure absolute safeguarding of such materials. Pursuant to DOE Order 470.1, *Safeguards and Security Program*, NNSA/NSO will perform a security (vulnerability) assessment for the Rad/NucCTEC and all operations connected to it and implement adequate security measures to protect any type of material at the facility. The results of that security assessment are classified. DOE Order 470.1, establishes general program requirements and there are series of orders, policies, and guides tiered from that order. Safeguards and Security program elements include: Program Management, DOE Order 470 series; Personnel Security, DOE Order 472 series; Protection Operations, DOE Order 5632 and DOE Order 473 series; Materials Control and Accountability, DOE Order 5633 and DOE Order 474 series; and Information Security, DOE Order 5639 and DOE Order 471 series.

Response to comment L5-6. Machine and personnel safety measures fall into two main categories: engineered components and administrative controls. Engineered barriers at the Active Interrogation Facility would include the building itself and a fence that would be extended out in the direction of potential beam dispersion at a sufficient distance calculated by staff health physicists to preclude personnel outside the fence from getting a significant exposure. Other engineered components would include safety interlocks on doors and equipment panels that preclude the energizing of generation devices while workers are inside the area of concern. Large movable concrete barriers would be placed in critical locations for shielding, the mass and configuration of which would depend on the experiments being performed. Administrative controls would include a comprehensive training program for workers; access control at both the entrance to the Rad/NucCTEC complex (the whole facility is fenced) as well as at the Active Interrogation Facility itself. During the conduct of experiments, a detailed step-by-step checklist procedure would be used that includes verification and functionality of engineered controls prior to energizing any sources. Operations would be conducted remotely during experimentation with higher flux sources.

Typically, the high energy beams used at the facility would shine upwards. Because a small percentage of the incident beam can be diffracted and reflected in many directions by the atmosphere (a phenomenon termed “sky-shine”), modeling was performed to calculate the significance of this phenomenon to workers and the environment. Conclusions indicated that there were no occupational or wildlife issues associated with this effect. However, because detection systems used in the other venues are so sensitive, the Active Interrogation Facility would be located some distance away from other venues in the Rad/NucCTEC to minimize any interference.

Any time a material is exposed to neutron flux, a very small quantity of nuclei in the atoms of the material will absorb, or “capture” a neutron, converting that atom to a radioactive isotope. The term for this phenomenon is called neutron activation. This phenomenon is significant in regions of extremely high neutron flux with lengthy exposure durations, such as inside a nuclear reactor. In that environment, components of the reactor become highly activated, and therefore the components themselves become highly radioactive. In the activities identified to be performed at the Active Interrogation Facility, it is true that some atoms of collateral materials exposed to the beams would be activated (i.e., crates, cargo containers, truck trailers). However, insufficient neutron flux and exposure duration would occur to activate these materials to any level of concern.

Response to comment L5-7. As indicated in section 2.1.2.1 of this EA, the entire proposed project area is undisturbed. The High Speed Road will not intersect or overlap any existing roads.

Response to comment L5-8. To minimize the risk should an accident occur, all SNM would remain in its shipping container when in use on the High-Speed Road. Section 2.1.1 has been revised to clarify this point.

Response to comment L5-9. Inclusion of the requested information in a sidebar in the EA would not enhance the analysis of environmental impacts of the proposed action.

Response to comment L5-10. If this EA analysis indicates the necessity of doing so, NNSA will prepare an EIS.

Response to comment L5-11. The term used in the EA, “processed, altered or modified” is used in a macroscopic sense to describe to the public that the materials would not be dismantled, used in chemical reactions, or removed from their cladding. Although materials at the Active Interrogation Facility would be subjected to neutron and high energy photon beams, the quantity of activation products would be so slight that those levels would be well below free release limits. See response L5-6.

Response to comment L5-12. While radiological materials are in use at the Rad/NucCTEC, the materials will be used in several configurations depending on the types of testing being performed. Sometimes the material will be removed from shipping containers so that they can be placed in real-life configurations that would emulate the illicit transport of such materials. However, in no case would SNM be removed from its shipping container when used on the High-Speed Road venue.

Response to comment L5-13. See response L5-11.

Response to comment L5-14. Pursuant to NEPA, an environmental impact statement is prepared by the federal agency proposing an action that may significantly impact the human environment. Under Council on Environmental Quality *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* (40 CFR 1500-1508), an environmental assessment is used to determine whether to prepare an

environmental impact statement. NNSA/NSO will, based on the analysis in this EA and comments received, determine if an EIS is required for the proposed Rad/NucCTEC project. Also see response L1-10.

Response to comment L5-15. Based upon a site selection process and extensive coordination with NTS stakeholders, it was determined that the proposed project location would best meet mission requirements. The proposed location reduces security risks; takes advantage of existing NTS infrastructure, including proximity to the Device Assembly Facility; and represents a final consensus of optimization of all the parameters that were the basis of the evaluation. Section 2.2.2 has been revised to more fully describe the site selection process.

Response to comment L5-16. See response L3-2 above.

Response to comment L5-17. The use of existing operating facilities, which the Rad/NucCTEC venues would simulate, is not feasible. It would not be possible or would be very difficult to achieve the controlled conditions required for much of the testing and evaluation that would occur at Rad/NucCTEC. Attempting to conduct testing and evaluation at existing operating facilities would cause disruptions to those operations, expose non-involved workers, and potentially the public to exposure to radioactivity, and present unacceptable security risks. In addition, it would not be feasible to conduct tests and evaluations using SNM at existing operating facilities. Providing security for such activities would be inordinately difficult and expensive. The facilities that comprise the venues at Rad/NucCTEC would be designed to accurately emulate “real world” facilities. For example, designs of the Port of Entry—Primary and Port of Entry—Secondary venues would be based on GSA standard designs. The High Speed Road venue would be constructed to existing highway design standards of the State of Nevada.

Response to comment L5-18. The use of computer models would not meet the purpose and need for the proposed project.

Response to comment L5-19. The NTS is not a commercial venture and its value is not measured in terms of monetary return. The Device Assembly Facility is a multi-mission facility used for a variety of critical missions. For example, sub-critical experiment packages and target assemblies for the Joint Actinide Shock Physics Experimental Research facility are assembled at DAF. A number of critical assemblies for use in conducting tests and experiments involving nuclear criticality and the mission work they support are being moved to a portion of the DAF. Although DAF would provide substantial support for Rad/NucCTEC, it is not dependent on that work.

Response to comment L5-20. The human environment includes all aspects of the natural environment. This EA addresses all potentially affected aspects of the natural environment.

Response to comment L5-21. Although the last underground nuclear weapon test occurred in September 1992, a preeminent mission of NNSA/NSO is to maintain readiness to conduct a nuclear test if so directed by the President of the United States. The NTS lands continue to be needed for the purposes for which they were withdrawn. Also see response L1-12.

Response to comment L5-22. As noted in the NTS EIS ROD, the U.S. Environmental Protection Agency “recommended that future developments be sited in already-disturbed areas unless other overriding factors require placing such facilities in undisturbed areas.” Based upon the siting evaluation described in section 2.2.2 of this EA, the decision to site the proposed Rad/NucCTEC in a previously undisturbed area was based upon “overriding

factors.”

Response to comment L5-23. The ROD and RMP have been added to the list of references in the EA.

Response to comment L5-24. Based on the analysis in this EA, the proposed project would not adversely impact groundwater resources. Therefore, the two listed documents are not relevant to evaluating the potential environmental impacts of the proposed Rad/NucCTEC.

Response to comment L5-25. The Rad/NucCTEC would not pose a conflict with NNSA/NSO’s primary mission of maintaining readiness to conduct underground nuclear testing nor would it conflict with conducting a test, should that become necessary.

Response to comment L5-26. Neither solar nor wind generated electric power sources are available at the NTS. DOE did decide to cooperate in the construction and operation of up to 100 megawatts of solar powered electrical generation in Area 22 of the NTS; however, the project proponent, Corporation for Solar Technology and Renewable Resources, found that such a project would be economically unfeasible and abandoned the project. In addition, NNSA/NSO supported the concept of a wind-powered electrical generation facility that would have been constructed and operated at the NTS by a private corporation. Consideration of that project was terminated due to potential adverse impacts to critical national security projects and training on the Nevada Test and Training Range.

Response to comment L5-27. Section 4.1.7 has been modified to include the estimated fuel use during construction of the Rad/NucCTEC. The vast majority of Rad/NucCTEC workers would travel to the facility on buses that currently transport workers from various locations in the Las Vegas Valley and Pahrump to the NTS and to facilities in forward areas, thus would not cause an increase in fuel use. The few workers that would choose to drive personal vehicles would not add an appreciable amount to fuel usage in southern Nevada.

Response to comment L5-28. Because there would be no radioactive emissions anticipated from the Rad/NucCTEC, there is no need to make the suggested change to the format of the EA. Section 4.1.7 indicates that the CAP-88 model was used in accordance with EPA guidelines in Appendix D to Part 61, “Methods for Estimating Radionuclide Emissions,” to comply with the requirements of 40 CFR 61.07 and 40 CFR 61.96. The NTS presently operates an EPA-approved site compliance air monitoring network for radionuclides that would include the proposed facility.

Response to comment L5-29. Section 5.0 of this EA addresses cumulative effects of the proposed Rad/NucCTEC and other ongoing, proposed and reasonably anticipated actions.

Response to comment L5-30. See response L1-22.

Response to comment L5-31. The *Final Programmatic Biological Opinion for Nevada Test Site Activities* (Biological Opinion)(U.S. Fish and Wildlife Service, 1996), provides two methods to mitigate loss of desert tortoise habitat due to activities at the NTS. The first method is to reclaim previously disturbed areas within the range of the desert tortoise on the NTS. The second method is to pay a mitigation fee to compensate for the loss of tortoise habitat. NNSA/NSO’s preferred method of mitigating for loss of desert tortoise habitat is to reclaim previously disturbed tortoise habitat on the NTS. Section 6.0 has been revised to clarify this point.

Response to comment L5-32. See response L1-32.

Response to comment L5-33. All issues concerning legal liability must be addressed in accordance with applicable Federal law, including statutory requirements, contractual terms, and indemnification authorities.

Response to comment L5-34. See responses L5-8_ and L5-12.

Response to comment L5-35. Section 8.0 of this EA has been revised.

Response to comment L5-36. Comment noted.



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July 6, 2004

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“PREAPPROVAL DRAFT ENVIRONMENTAL ASSESSMENT FOR
RADIOLOGICAL/NUCLEAR COUNTERMEASURES TEST AND EVALUATION COMPLEX,
NEVADA TEST SITE, (DOE/EA-1499)”

Dear Mr. Schmidhofer:

The Tri-City Industrial Development Council (TRIDEC) is a strong advocate for homeland security and recognizes the national need to protect radioactive and nuclear materials from use by terrorists. The Draft Environmental Assessment (EA) discusses some facilities and capabilities that are not currently available within the United States. TRIDEC does not oppose these facilities and capabilities.

However, TRIDEC is concerned that some of the proposed facilities and capabilities may duplicate those that exist at DOE's Volpentest Hazardous Materials Management and Emergency Response (HAMMER) Training and Education Center and the Pacific Northwest National Laboratory, both in Richland, Washington. It would not be a prudent use of public funds to duplicate existing facilities and capabilities.

TRIDEC requests that DOE specifically evaluate these existing facilities and capabilities as an alternative in the EA. Currently, the EA evaluates only the “no action alternative” and alternate sites at the Nevada Test Site. TRIDEC believes this is not in full compliance with the National Environmental Policy Act of 1969, as amended, and its implementing regulations.

Thank you for the opportunity to comment on this EA of national importance.

Sincerely,

Copy to: Senator Patty Murray
Senator Maria Cantwell
Congressman Doc Hastings

**TRIDEC COMMENT ON
PREAPPROVAL DRAFT ENVIRONMENTAL ASSESSMENT FOR
RADIOLOGICAL/NUCLEAR COUNTERMEASURES TEST AND EVALUATION
COMPLEX, NEVADA TEST SITE
(DOE/EA-1499)**

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The National Environmental Policy Act of 1969, as amended, requires in section 102(2) that all agencies of the Federal Government shall: "(C) include in every recommendation or report on proposals for...other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on...alternatives to the proposed action" and "(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources".

This requirement is codified by the Council on Environmental Quality in Title 40 of the Code of Federal Regulations, section 1500.2 which requires that Federal agencies shall to the fullest extent possible: "(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment" and "(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment."

40 CFR 1508.9 requires that an Environmental Assessment: "(b) Shall include brief descriptions of...alternatives as required by section 102(2)(E)". DOE regulation 10 CFR 1021.321 requires that: "A DOE EA shall comply with the requirements found at 40 CFR 1508.9."

Therefore, it appears that evaluating existing facilities and capabilities, particularly those within the DOE complex, is a reasonable alternative to the proposed action and is required to be addressed in the EA.

L-6-1

Response to comment L6-1. The Department of Homeland Security requested NNSA/NSO to construct, operate, and maintain the proposed Rad/NucCTEC at the NTS. Therefore, non-NTS locations are not considered reasonable alternatives.